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Chairman: Mrs. FLORES (Uruguay)

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The meeting was called to order at 10.25 a.m.

AGENDA ITEM 152: QUESTION OF RESPONSIBILITY FOR ATTACKS ON UNITED NATIONS AND ASSOCIATED PERSONNEL AND MEASURES TO ENSURE THAT THOSE RESPONSIBLE FOR SUCH ATTACKS ARE BROUGHT TO JUSTICE (continued) (A/48/144; A/C.6/48/L.2 and L.3)

1. Mr. TICHY (Austria) said that peace-keeping forces were a necessary and irreplaceable instrument. Austria had provided military personnel, police and civilian experts to 12 of the 21 operations begun since 1983 and viewed with particular concern the increasingly precarious and therefore intolerable situation of the peace-keeping forces.

2. The issue before the Committee had recently been addressed at the International Conference for the Protection of War Victims held in Geneva under the auspices of the Swiss Government and the International Committee of the Red Cross, which had adopted the following statement: "Stressing that peace-keeping forces are bound to act in accordance with international humanitarian law, we also demand that the members of peace-keeping forces be permitted to fulfil their mandate without hindrance and that their physical integrity be respected"; that statement might serve as the starting-point for the Committee's discussion of the item.

3. The peace-keeping forces were operating under increasingly dangerous circumstances. An integrated approach must be taken to the problem. Moreover, as the Secretary-General stated in his report (A/48/349), the problem required action by the Security Council and the Secretary-General himself. Austria was in favour of a draft convention on responsibility for attacks on United Nations personnel, as proposed by New Zealand, which would address one of the main legal aspects of the problem; however, the proposal would need careful consideration. Austria thought that special attention should be given to the types of operation and categories of personnel to be covered by the future convention and to a mechanism to ensure its implementation. Account would also have to be taken of the suggestions made in other United Nations bodies and of the proposals contained in the draft convention submitted by Ukraine. However, in order not to delay the drafting process, the solution of some of the problems connected with the draft convention would have to be deferred. Attention should also be given to the project for the establishment of an international criminal court, fully supported by Austria, whose jurisdiction should be extended to the crimes envisaged in the draft convention on responsibility for attacks against United Nations personnel.

4. Mr. CALERO RODRIGUES (Brazil) said that the inclusion of the item in the agenda of the General Assembly had been a timely initiative. The increasing number of attacks against United Nations forces in recent months had made it necessary to reinforce their security and had prompted a number of delegations to propose legal measures designed to put an end to the situation. The proposals contained in documents A/C.6/48/L.2 and L.3 took different approaches but both represented important contributions.

5. The draft convention contained in document A/C.6/48/L.2 differed from the system established in the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons in its scope with regard to

(Mr. Calero Rodrigues, Brazil)

materiae personae: the "internationally protected persons" to which the 1973 Convention applied included any representative or official of international organizations of an intergovernmental character "entitled pursuant to international law to special protection from any attack on his person, freedom or dignity". The Convention could thus be interpreted as covering United Nations personnel. It was therefore necessary to consider the possibility that the parties to the Convention or the International Court of Justice should validate that interpretation, in which case there would be no need to draft a new instrument.

6. In any case, if it was decided to use the expression "United Nations personnel" it would be necessary to determine whether the future convention would cover only personnel participating in operations conducted under the auspices of the Security Council or whether to endorse the opinion stated by the Secretary-General in paragraph 3 of document A/48/349 that it was not practicable or desirable to make a categorical distinction between persons acting under the mandate of the Security Council and others acting under other mandates.

7. With regard to the Ukrainian proposal, which would establish a true statute for United Nations personnel engaged in peace-keeping operations, Brazil shared the opinion of the Secretary-General that such an instrument would require more time but it was convinced that it should be given serious consideration, for it would be a useful addition to the legal tools currently available for enhancing the safety of peace-keeping personnel. Brazil also supported the suggestion that a working group should be set up to consider both proposals.

8. Mr. ABDELLAH (Tunisia), speaking on behalf of the countries members of the Arab Maghreb Union, said that the ending of the cold war had led to an increase in United Nations peace-keeping operations and that peace-keeping personnel were encountering increasingly difficult and dangerous situations.

9. The Arab Maghreb Union was profoundly concerned about the security of peace-keeping personnel and regarded the attacks on them as intolerable; it was also intolerable that the perpetrators of the attacks should go unpunished. It was therefore necessary to revise the existing security system and take an integrated approach to establishing mechanisms to ensure not only the safety of the personnel but also respect for their mandates. Accordingly, the Arab Maghreb Union welcomed the Secretary-General's proposals concerning an international instrument on the status and security of United Nations personnel, the drafting of which would bring together in a single text the general principles of the applicable international law.

10. The proposals made by the delegations of New Zealand and Ukraine aimed at correcting the shortcomings in the existing system did not cover all the aspects of the question but they constituted a good starting-point for the Committee's work.

11. The delegations of the Arab Maghreb Union were in principle in favour of a binding convention and shared the view that the problem of the protection of United Nations personnel required immediate action. Accordingly, they supported the proposal for adoption of a statement reaffirming the principles of

(Mr. Abdellah, Tunisia)

international law and the obligations of Member States with regard to the status and safety of United Nations personnel.

12. Mr. HEINE (Marshall Islands) said that his country had not provided troops for peace-keeping operations. However, it shared the concerns which attacks against United Nations personnel had raised among those countries in the Pacific region that had sent troops. In 1993, those attacks, particularly repugnant because they were directed against soldiers acting in the service of peace and for those less fortunate, had resulted in 170 deaths, which made it clear that urgent consideration must be given to the safety and security of United Nations personnel. It was incumbent on the international community to ensure the safety of its personnel and to see to it that those committing criminal acts against such personnel were brought to justice. As indicated by the Special Committee on Peace-keeping Operations, there was a need for an international convention which would hold offenders accountable for their acts.

13. His delegation accordingly supported New Zealand's initiative in that regard, taken in response to a particular section in the Secretary-General's report entitled "An Agenda for Peace", and shared the view that the Sixth Committee should consider the legal aspects of that matter.

14. Mr. HALFF (Netherlands) said that his country had made substantial contributions to United Nations peace-keeping operations; furthermore, it attached great importance to the creation of a body of coherent rules to improve the safety and security of United Nations personnel and accordingly welcomed New Zealand's proposal to that effect. At the same time, the development, drafting and implementation of those rules might be time-consuming and a practical approach to that task was therefore in order. In that connection, besides a number of proposals put forward by the Secretary-General in document S/26358 which could be implemented immediately, the first step towards establishing those rules might be a declaration of principles.

15. Bearing in mind that the final stage should be the adoption of a convention, his country supported the proposal to establish a working group, which would address the following questions, among others: the applicability, both active and passive, of international humanitarian law; the application of the draft convention in general and the status of persons deployed by humanitarian organizations in particular, as referred to in article 2 (c) of the draft convention submitted by New Zealand; and the establishment of jurisdiction in connection with the findings of the International Law Commission working group on a draft statute for an international criminal court.

16. Mr. PEREZ OTERMIN (Uruguay) said that United Nations peace-keeping missions, which in the past had been strictly military in nature, had expanded their scope to include humanitarian and electoral operations and administrative and civil collaboration, with a consequent diversification of their membership. Those operations had expanded from six or seven missions with a personnel of 12,000 to a total of 17 missions with 80,000 staff members. He recalled that Uruguay had a long-standing tradition of respect for individual rights and for the principles of peaceful coexistence, both in theory and in practice. In fact, his country had first participated in a peace-keeping mission in 1935. There were currently more than 1,000 Uruguayans involved in United Nations

(Mr. Perez Otermin, Uruguay)

peace-keeping operations throughout the world. Consequently, Uruguay had supported and continued to support all the steps taken to solve the problem of attacks against United Nations personnel, which had risen dramatically in recent years.

17. One of the main solutions was to commence work on the elaboration of a convention which would help prevent and suppress attacks against peace-keeping personnel. It was the duty of the international community to protect the physical integrity of soldiers and civilian personnel and such a convention would have a dissuasive effect. New Zealand and Ukraine had each submitted a draft instrument, which were complementary and could be harmonized while still respecting their differences. Thus, the one emphasized individual responsibility and the other the responsibility of States. The first dealt with acts against United Nations personnel while the second also included acts committed by such personnel.

18. The main problem arose when missions were deployed to territories which lacked a responsible authority capable of ensuring compliance with the security measures, in which case intensified efforts were necessary. When such authority was present, the task was much simpler.

19. His delegation favoured the elaboration, as soon as possible, of a convention; it supported the proposal to set up a working group, to the future chairman of which it promised the broadest cooperation.

20. Mr. YAÑEZ-BARNUEVO (Spain) said that the recent expansion of United Nations operations had unfortunately been accompanied by a substantial increase in deaths among peace-keeping personnel, a phenomenon that had increased alarmingly in the past two years. That situation called for an immediate response and both the Secretary-General in his report (A/48/349) and the Security Council in its resolution 868 (1993) had taken the first steps to strengthen the security of those personnel and to ensure that every host country took effective measures to guarantee their safety and security.

21. His country, which was an active contributor to United Nations operations and had already suffered the loss of its own nationals in those operations, attached particular importance to strengthening security for personnel. Security Council resolution 868 (1993) was significant but not sufficient; all Member States, in addition to the basic preventive measures, must adopt others dealing with reparations and sanctions, if the attacks continued. In that connection, his delegation welcomed the draft conventions submitted by New Zealand and Ukraine.

22. Ukraine's draft convention was more ambitious and endeavoured to address all aspects of the problem, including the applicable general principles, the status of United Nations personnel, and their privileges and immunities. The New Zealand draft, in contrast, limited itself to defining attacks against United Nations personnel as a specific offence and to establishing individual responsibility for such acts, on the basis of the principle aut dedere aut iudicare.

(Mr. Yañez-Barnuevo, Spain)

23. While sharing Ukraine's view that all aspects of that complex issue had to be addressed, his delegation considered that in dealing with such a broad task and bearing in mind the urgent need to halt the attacks against United Nations personnel, it was best to take a gradual approach, giving priority to the immediate adoption of dissuasive measures to stop or diminish drastically the loss of those acting to serve the United Nations. It thus preferred, in the short run, to focus on the goal of establishing the individual responsibility of the authors of the attacks and the application of the principle aut dedere aut iudicare, which had already been used successfully in other instruments. That would help strengthen security for United Nations personnel, in particular when the host Government's authority was in doubt or did not exist.

24. New Zealand's draft naturally required careful study so as to arrive at a consensus, which was vital to its general application. Particular attention must be given to the precise delimitation of the convention's scope with respect to personnel and the classification of punishable offences. That task could be carried out effectively by a working group which would meet between sessions and would present a text for adoption by the General Assembly at its next session.

25. Mr. DEREYMAEKER (Belgium) said that his delegation supported the idea of drafting new legal instruments on the safety of United Nations forces and personnel as soon as possible, based on the drafts submitted by New Zealand and Ukraine, which although different were not mutually exclusive.

26. The security of United Nations operations and personnel was a vital question and a source of grave concern to Belgium, which had participated in such operations since 1949 and currently had some 2,000 persons serving. The recent diversification of United Nations peace-keeping activities had accentuated the problem of protecting their personnel, because, although there had always been some risk in operations in areas of conflict, in recent years the number of casualties among peace-keeping forces had been particularly high, many Belgians being among them.

27. The situation was intolerable and demanded, from the moral point of view, a stern response on behalf of those who risked their lives for the Organization, and, from the political point of view, in order to retain the support of Member States for United Nations peace-keeping operations.

28. General Assembly resolution 47/72, the March statement of the President of the Security Council (S/25493), the August report of the Secretary-General (A/48/349), the proposals of the Special Committee on Peace-keeping Operations and Security Council resolution 868 (1993) of 29 September 1993, were some of the responses to that concern, stressing the need to ensure that security was part of the planning for peace-keeping operations and that it extended to all the personnel involved. The various organs of the United Nations should coordinate their efforts to that end, while not forgetting that the primary responsibility rested with the host country, which should take all measures to ensure the security of the operation and its personnel.

29. His delegation considered that the Sixth Committee was the appropriate forum for dealing with the legal aspects of the question and that, in addition to the practical and legal measures which might be adopted in the short term to

(Mr. Dereymaeker, Belgium)

remedy some of the defects in the current system, a "long-term" strategy should be envisaged. With regard to the specific question of drafting a convention on responsibility for attacks on United Nations and associated personnel, it was essential that the principle of individual criminal responsibility for such attacks should be clearly established and provision made for a system of universal jurisdiction, as a complement to the principle "prosecution or extradition".

30. The New Zealand draft took those fundamental concerns into account, but it was only a general framework on which a more detailed study might be based. Among the most important questions, it would be necessary to consider the definition of the offences to be punished and the categories of protected persons. In principle, Belgium was in favour of very wide protection, covering also civilian personnel and the members of humanitarian organizations whose activities were directly connected with United Nations operations. It would also be necessary to determine whether the concept "United Nations operations" covered only operations established pursuant to a mandate from the Security Council.

31. In conclusion, his delegation welcomed the proposal to establish a working group at the current session which would be able to engage in a more detailed study of the questions raised by the item under discussion and would also be able to meet to complete its work before the next session.

32. Mr. GARNJANA-GOONCHORN (Thailand) said that Thailand, as a troop-contributing country, was greatly concerned at the increasing number of casualties suffered in various United Nations peace-keeping operations and believed that it would be necessary to take specific, effective and mutually reinforcing measures to protect the personnel engaged in such operations. His delegation therefore welcomed resolution 868 (1993) adopted by the Security Council, and the Secretary-General's report of 27 August 1993 on the security of United Nations operations (A/48/379).

33. As the Secretary-General indicated in his report, the primary responsibility for the safety of United Nations personnel rested with the host Government, but in recent years gaps had appeared in the existing system. In many cases, the central Government lacked sufficient control and authority and, that being the case, those countries could not be asked to shoulder more responsibility than they could carry.

34. His delegation therefore greatly welcomed New Zealand's initiative in putting before the current session of the General Assembly, under agenda item 152, a draft convention on responsibility for attacks on United Nations personnel. It also welcomed the draft international convention on the status and safety of the personnel of the United Nations force and associated civilian personnel, proposed by Ukraine. As a member of the Special Committee on Peace-keeping Operations, Thailand had closely followed the discussions on those drafts.

35. Both initiatives were encouraging, but a number of questions remained to be settled: for example, general principles, definitions, the status of personnel and the obligations of States parties. His delegation would therefore be in

(Mr. Garnjana-Goonchorn, Thailand)

favour of a draft convention with a specific focus, which would be able to obtain a minimum number of signatories, and thus to enter into force without delay. In that regard, he believed that a working group, to which his delegation would be prepared to contribute, should be established to look into the proposals in detail. The issue of the security of United Nations personnel was of universal concern and the members of the international community should look after the interests, welfare and safety of the courageous men and women carrying out their duties on its behalf.

36. Mr. CHEN Jian (China) said that the expansion of United Nations peace-keeping operations in number and scope placed the safety of the persons engaged in them under increasing threat. In the circumstances, it had become a matter of priority to consider taking all possible measures to protect the safety of United Nations and associated personnel. Another question which must be dealt with was how those responsible for attacks on United Nations personnel should be punished. His delegation noted that, apart from Article 105 of the United Nations Charter, the 1948 Convention on the Privileges and Immunities of the United Nations and the Headquarters agreements signed by the United Nations and Member States, there was no comprehensive and effective legal instrument on the matter and the related existing conventions and agreements were far from perfect or practical.

37. Reaching agreement on how to protect United Nations and associated personnel participating in peace-keeping operations was only part of the problem. It was also necessary to consider the punishment of those responsible for attacking such personnel. The international community should make those responsible respect the authority of justice and law. In that connection, his delegation shared the view that all necessary steps should be taken to punish the persons responsible in accordance with the relevant national law.

38. His delegation had taken note of the fact that current peace-keeping operations went beyond the scope stipulated in the United Nations Charter. To some extent, that disturbed some countries and made it difficult for them to commit themselves to protect the safety of peace-keeping personnel.

39. In considering how to protect the United Nations and associated personnel, it was important first of all to respect those objective realities and then proceed to find a reasonable solution. The solution would be to try to strike a balance between protection of the personnel and full observance of the sovereignty of the countries concerned. While making full use of the existing provisions of the international legal system, consideration should be given to the possibility of formulating a new legal instrument which, while providing protection for United Nations and associated personnel, would establish that those responsible for violating its provisions should be severely punished.

40. In view of the above, his delegation was in favour of holding consultations and discussions and making the necessary preparations with a view to adopting a method for protecting United Nations peace-keeping and associated personnel. His delegation was ready to support any solution that was reasonable and effective, whether it was a new legal instrument or other measures.

41. Mr. SLADE (Samoa) said that the process of preventing conflict and of keeping and building peace concerned people. It affected everyone, large and small. His country, which had no military tradition, was contributing civilian personnel to the United Nations peace effort in various parts of the world.

42. The safety of United Nations personnel was a matter of the greatest concern to his Government; accordingly it favoured the adoption of early and effective measures and any necessary arrangements within the United Nations system itself for the full protection of all personnel. It was essential that those responsible for attacks on United Nations personnel should be brought to justice.

43. The basic problem, of course, was to determine what action to take against those who committed acts of violence against United Nations personnel, and how effective such action should be. The consensus seemed to be that existing international law and international conventions did not offer the desired solution. The report of the Secretary-General (A/48/349) outlined some of the main difficulties and proposed possible solutions, including the adoption of a new legal instrument to deal more specifically with the security of United Nations forces and personnel. His delegation supported the New Zealand proposal for a convention on the matter, and also supported the suggestion that a working group should be established to study the proposal in more detail.

44. Mr. LONG (Cambodia) reviewed the situation of his country following the lengthy conflict which had caused such great suffering to the Cambodian people. He commended the United Nations Transitional Authority in Cambodia (UNTAC) for its work; that mission had been one of the most complex, ambitious and costly ever undertaken by the United Nations. It had been based more on persuasion than on force. Unfortunately, the refusal of one of the four parties in Cambodia to honour its commitments had placed UNTAC in a very difficult position, leading not only to a lack of security for Cambodians but also endangering the United Nations personnel.

45. His delegation supported the draft resolution on responsibility for attacks on United Nations and associated personnel. It fully agreed that those responsible for such attacks should be brought to justice. It was very sorry that UNTAC officials should have lost their lives in their noble mission of bringing peace, democracy and development to Cambodia, and condemned those who, either deliberately or involuntarily, had committed such crimes.

46. Mr. ITO (Japan) noted with concern that the number of casualties among United Nations personnel had been increasing as the Organization had assumed an expanded role in the maintenance of international peace and security and as the nature of conflicts had become more complex. There was a growing number of instances where host countries and parties to conflicts had neither the ability nor the will to protect United Nations personnel. The seriousness of the issue demanded that it should be properly addressed and that effective measures should be taken to ensure the security of United Nations personnel. His delegation believed that the international community must tackle the issue as a matter of priority.

(Mr. Ito, Japan)

47. The Government of Japan had been actively contributing to efforts to protect United Nations personnel. In the Special Committee on Peace-keeping Operations, his delegation had proposed that host countries should be required to educate the general public and to disseminate information on the role of peace-keeping operations, that parties to a conflict should inform the United Nations of the situation with respect to the safety of personnel, and that those in authority should be required to punish those who took any action that might harm or endanger peace-keeping personnel. Japan had also helped to clarify the responsibilities of the United Nations in cases where host countries were unable to guarantee the safety of personnel.

48. In his view, the security of United Nations personnel could be effectively ensured by combining a variety of measures, including legal and judicial means. In many of the areas where United Nations personnel operated, the local administration of justice was not effective; it could not be expected, therefore, that their safety could be guaranteed by an approach that relied on the existence of an effective judicial system.

49. The draft convention proposed by New Zealand contained several possible options, and the Sixth Committee should fully explore legal measures that might be adopted and the effect that might be anticipated for each one.

50. Referring to the New Zealand proposal, he said that any document that might be drafted on the safety of United Nations personnel should be implementable and effective, and should be coordinated with other international instruments defining the area of jurisdiction. Given that the entry into force of a new convention would take some time, and that its effectiveness would depend on its acceptance by those Member States that would be bound by its provisions, the document should be guided by a long-term strategy.

51. His delegation noted with satisfaction that the proposed draft convention filled the gaps and deficiencies in existing international law. At the same time, however, it posed a number of problems, most of them relating to its effectiveness. For example, it was modelled on the provisions of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, and was intended to ensure that the suspect could not proceed with impunity based on the principle of "prosecution or extradition". There were cases, however, in which the police and judicial systems had severely deteriorated or were even non-existent. In such cases, it was unrealistic to expect effective prosecution by the host country. Furthermore, in the event that a suspect was located in a third country, it was possible that the third country would find it difficult to prosecute the suspect, since it was unlikely that the host country would cooperate. One way to overcome the problem might be to compensate for the deficiency in the judicial function of the host country by introducing into the draft convention a mechanism of investigation which the United Nations currently used in cases of criminal action against its personnel in the host country. However, there was the possibility that such a solution might conflict with the sovereignty of the host country.

(Mr. Ito, Japan)

52. With regard to the provision that each State party would apply its national law when prosecuting a suspect in its territory, he said that it was doubtful whether the criminal law of a country claiming jurisdiction could be applied when that country was involved in a civil war.

53. In view of the situation, he agreed that the Sixth Committee should begin by adopting a basic criterion and general concept regarding the legal aspects of the safety of United Nations personnel. He endorsed the suggestion that a working group should be established at the present session of the General Assembly.

54. Mr. PERERA (Sri Lanka) thanked the delegations of New Zealand and Ukraine for their clear presentation of the issue and their texts on a draft convention on the subject. The two texts (A/C.6/48/L.2 and L.3), together with the Secretary-General's report (A/48/349-S/26358) were a sound basis for a comprehensive examination of the legal issues related to the protection of personnel engaged in United Nations operations. Sri Lanka was fully aware of the need to provide the greatest possible protection for such personnel, since its nationals had participated actively in the conduct of the electoral process by UNTAC in Cambodia.

55. The task entrusted to the Sixth Committee was to examine the legal aspects of the responsibility for attacks against United Nations personnel as well as the measures required to bring to justice those responsible for such attacks. There were a number of international legal instruments which had a bearing on the broad subject of the safety of personnel involved in peace-keeping operations, such as the conventions on the privileges and immunities of the United Nations and its specialized agencies, the Geneva Conventions of 1949 and the additional Protocols of 1977. The draft convention prepared by Ukraine had taken into account some provisions of those instruments.

56. His delegation concurred with the delegation of New Zealand that the time had come for international law to address the question of the responsibility of individuals and entities other than States for acts carried out against personnel engaged in United Nations operations. The New Zealand draft text was in keeping with the legal regime of extradite or prosecute, which formed the basis of several international conventions on terrorism, such as the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, and the International Convention against the Taking of Hostages. The former could be a logical starting-point for looking into the issue of individual criminal responsibility in the context of providing protection to personnel engaged in United Nations operations. In that regard, the proposal made by the Brazilian delegation at the current session deserved careful consideration.

57. While Sri Lanka did not wish to make specific comments on the draft texts at that juncture, it shared the apprehension expressed by other delegations concerning the broad scope of the proposed convention, since a substantive and formal link with United Nations operations must be maintained, either through a mandate from the Security Council or General Assembly, or pursuant to an agreement with the Secretary-General.

(Mr. Perera, Sri Lanka)

58. In conclusion, Sri Lanka supported the proposal for the establishment of a working group during the present session for the exchange of views which would be necessary in order to make progress on that important initiative.

59. Mr. CARDENAS (Argentina) said the item under discussion was basically a result of the following circumstances. First, since 1988 the Security Council and the General Assembly had established 19 peace-keeping operations; some of those operations were unprecedented in scale, both in terms of mandate and content and also in terms of the number of troops deployed. Second, more than 80,000 men and women were currently serving in the United Nations forces. Unfortunately as a result of that increase the number of casualties among the military and civil personnel of the Organization had also risen. According to the report of the Secretary-General (A/48/1) there had been 97 casualties in the first four months of 1993 alone. Regrettably those figures had risen in the last few weeks. Third, the mandates of the new peace-keeping operations had become increasingly complex and included activities which had not been envisaged in earlier missions. The diverse nature of their duties placed the military and civilian staff in high-risk situations.

60. It was therefore clear that there were no rules of international law to protect and increase the safety of personnel engaged in United Nations peace-keeping operations. That situation, which was highlighted in the report entitled "An Agenda for Peace", as well as in the report of the Secretary-General (A/48/349-S/26358), had led to the adoption of General Assembly resolution 47/72, the statement by the President of the Security Council of 31 March 1993 and the adoption of Security Council resolution 868 (1993).

61. Consideration of the issue of the safety of personnel engaged in United Nations operations should be expanded as a matter of urgency and approached from the legal angle. The draft conventions submitted by New Zealand and Ukraine formed a sound basis for the drafting of an agreed international legal instrument on the subject. For that reason he supported the idea of setting up a working group in the Committee to prepare a draft convention for approval as soon as possible.

62. Argentina had a total of 1,432 of its nationals engaged in nine operations, and it was fully aware of the urgent need to increase the safety of personnel engaged in such operations. It was therefore prepared to participate actively in the work of the Committee and in the working group set up for that purpose.

63. Mr. ABOULMAGD (Egypt) said that recently there had been an increase in the number of peace-keeping and humanitarian operations carried out by the Organization in different parts of the world. That entailed ever greater threats and risks for the staff members and personnel involved in such tasks, many of whom regrettably were losing their lives in the discharge of their duties. The Secretary-General's report entitled "An Agenda for Peace" had addressed that issue, as had General Assembly resolution 47/120 and, more recently, the report of the Secretary-General on the work of the Organization (A/48/1), which underlined the need to guarantee the safety of United Nations personnel.

(Mr. Aboulmagd, Egypt)

64. Peace-keeping operations and humanitarian missions were frequently carried out in places without a legitimately constituted government; it was therefore essential to ensure the protection of the personnel carrying out such operations, irrespective of their status, whether civilian or military. For they were all working to achieve a common goal, under the auspices of the United Nations, and deserved maximum protection without any discrimination or exceptions.

65. In its capacity as the principal legal body of the Assembly, the Committee could play an important role in developing an efficient mechanism to tackle the problem. The Committee should therefore look into the situation and the proposals submitted by Member States, bearing in mind the legal instruments in force on the protection of persons enjoying international status, such as the Geneva Conventions and their additional Protocols.

66. By virtue of its complexity and nature, the task entrusted to the Committee was difficult. Nevertheless, including that item in the General Assembly's agenda was a positive step towards defining a legal mechanism to protect people participating in United Nations operations.

67. His delegation therefore supported the establishment by the Committee of a working group to study all aspects of the question and to elaborate an appropriate legal framework, which could take the form of a convention or any other form deemed suitable. His country was prepared to participate fully and actively in the relevant preparatory work, both in the Committee and in the working group set up for that purpose.

68. Mr. YOUSIF (Sudan) said that in principle his delegation welcomed New Zealand's initiative, in the light of his country's experience with the United Nations in the humanitarian field and in recognition of the dangers to which United Nations and associated personnel, in particular relief workers, were exposed. In that regard, Operation Lifeline Sudan provided a unique model by demonstrating how a host country was meeting its obligations under bilateral agreements with the United Nations and under agreements concluded with non-governmental organizations associated with the United Nations.

69. With regard to the security of operations, a distinction should be made between personnel providing humanitarian and relief assistance and forces deployed under a Security Council mandate. The former were acting within the legal framework provided by the Convention on the Privileges and Immunities of the United Nations and the Convention on the Privileges and Immunities of the Specialized Agencies, adopted by the General Assembly in 1946 and 1947 respectively, which contained specific provisions in that regard. In contrast, the security of United Nations forces was governed by administrative measures and lacked a legal framework established by the General Assembly.

70. In his country's view, it was premature to consider New Zealand's proposal in the context of the Secretary-General's report (A/48/349-S/26358). First, the Secretary-General's report was simply a study dealing with the protection of United Nations forces and personnel, which lacked legal force; secondly, that report, which had not yet been considered or adopted by the General Assembly, set forth ideas which might give rise to differing views; and thirdly, the

(Mr. Yousif, Sudan)

report included questions of a political nature which should be decided by Member States.

71. Without questioning the legitimacy of considering the item, his delegation believed that such consideration should be left open for the General Assembly, since under article 35 of the Convention on the Privileges and Immunities of the United Nations, the General Assembly was free to adopt a broader instrument on that same matter. Thus, the question of responsibility for attacks on United Nations personnel could be dealt with in the context of a new international legal instrument or by an additional protocol to the Convention referred to.

72. Before commenting on New Zealand's proposal, he wished to stress the need for political will on the part of both States and the Secretariat. They must be clearer and firmer in their condemnation of attacks on United Nations personnel. That assertion was based on Sudan's own experience in the case of the murder in southern Sudan in 1992 of four relief workers associated with the United Nations. On that occasion, the Secretary-General's spokesman had barely made reference to the event, omitting any mention of the Sudanese Government's official statement in which it had denounced the murders and had charged insurrectionists in the south of the country with those acts. Two years later, the Secretariat still seemed reluctant to name names, as indicated by paragraph 482 of the Secretary-General's report (A/48/1): "The murder of United Nations staff members working in humanitarian programmes in Afghanistan and the Sudan this past year is a tragic reminder of the fragile status of the United Nations humanitarian presence in turbulent areas". It would have been appropriate to mention in that document those responsible for that ill-fated act.

73. In respect of New Zealand's proposal (A/C.6/48/L.2), his delegation, reserving the right to submit written comments in due course, had several preliminary thoughts. First, the draft convention should be limited to United Nations personnel involved in civilian activities or humanitarian assistance and relief activities. The matter of forces deployed by the Organization could be considered at a later date and in a different manner, once the General Assembly had taken a decision on the Secretary-General's report (A/48/349). Secondly, the draft convention might include personnel of other organs and specialized agencies specified in the Convention on the Privileges and Immunities of the Specialized Agencies. Thirdly, humanitarian non-governmental organizations associated with the United Nations should not be included in the scope of the draft convention, in view of the difficulties involved in regulating such relations. Moreover, there had been some cases where those organizations had interfered in the internal affairs of States, under the pretext of carrying out humanitarian work. The logical context for protecting the personnel of such organizations was clearly the internal law of States, unless a State, for particular reasons and through separate agreements, decided to grant special protection to a non-governmental organization carrying out activities in its territory. In that connection, and to help standardize the work of voluntary non-governmental organizations, his delegation wished to mention the agreements concluded at the beginning of 1993 between his Government and the non-governmental organizations working in his country.

(Mr. Yousif, Sudan)

74. Many of the questions raised might give rise to differing views and it was difficult to expect consensus before all aspects of the issue had been considered. His delegation believed that the working group to be established for that purpose should begin its work at the next session of the General Assembly, so that delegations could hold the relevant consultations with their Governments. The resulting legal instrument could be a new convention, specific and broad in scope, or an additional protocol to the Convention on the Privileges and Immunities of the United Nations. The International Law Commission might also be requested to elaborate draft articles, accompanied by the opinions of Member States and the observations made by delegations during the debate.

75. Mr. RATUNAVECA (Fiji) said that, in accordance with its responsibilities under the Charter and out of the conviction that the Organization must actively foster international peace and security, his country had contributed civilian and military personnel to seven United Nations peace-keeping operations.

76. The Organization's experience thus far had shown that peace-keeping and peacemaking were complementary and interdependent operations, directed largely at containment in specific situations so that peace could be established. Yet, circumstances had changed and it was not always possible to achieve that objective. Furthermore, events in Bosnia and in Haiti had demonstrated that the United Nations forces were no longer perceived as a neutral presence and had become a target for attack by both sides in the conflict. Such attacks had caused many casualties among the personnel provided by his country, which welcomed the inclusion in the General Assembly's agenda of the item under consideration.

77. The international community must create without delay a legal framework under which United Nations peace-keepers could operate with some measure of security. It was particularly important to establish clear rules in international law recognizing that such attacks constituted an international crime in order to ensure that the perpetrators were brought to justice when the host country was not in a position to exercise that responsibility. Fiji therefore supported the draft convention on responsibility for attacks on United Nations personnel submitted by New Zealand, as well as the proposal to establish a working group to draft such a convention.

78. Mr. MOHAMMED (Nigeria) said that his delegation appreciated the efforts that were being undertaken in both the political and administrative fields regarding the question of responsibility for attacks on United Nations personnel. The Secretary-General, in his report entitled "An Agenda for Peace", had addressed certain legal aspects of the issue, and the Security Council had endorsed the Secretary-General's conclusion that there was a need for a new international convention regarding the protection of United Nations personnel. The time had come to undertake a careful and expeditious examination of all the legal aspects of the problem. Firstly, the question of the safety of United Nations personnel was the responsibility of the international community; secondly, the existing laws were inadequate for dealing with the problem, and lastly, there had been a significant growth in the number, scope, size and complexity of peace-keeping operations. The situation therefore posed new challenges, beginning with the problem of guaranteeing the safety of United

(Mr. Mohammed, Nigeria)

Nations personnel, a matter which was of great concern to Nigeria, not only because of the casualties suffered by Nigerian peace-keeping personnel, but also because of the alarming increase in attacks on United Nations personnel. Such attacks should be considered criminal acts, and those who committed such acts must be punished; to leave them unpunished would send the wrong signals to the perpetrators and discourage Member States from participating in peace-keeping operations.

79. The documents submitted by the delegations of New Zealand and Ukraine contained some significant innovations on the issue of ensuring the safety of United Nations personnel, and his delegation was certain that they could be very useful. For example, one of the proposals stipulated that persons who attacked United Nations personnel would be individually responsible for their acts, and extended the scope of the convention to cover personnel deployed by any organ of the United Nations. Nevertheless, Nigeria believed that the discussions must identify clearly the relationship between the draft conventions and the International Convention against the Taking of Hostages, on the one hand, and the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, on the other hand, both of which were inadequate for dealing with all aspects of the problem. For example, the 1973 Convention could hardly be effective in the case of attacks on United Nations personnel in a country whose Government had no control over its territory. The two drafts should be merged, since that would not only lead to bringing to justice those responsible for the attacks, but would also make it possible to establish preventive measures against such attacks.

80. Lastly, his delegation endorsed the proposal for the establishment of a working group to examine the proposals that had been prepared to address the issue.

81. Mr. KOROMA (Sierra Leone) said that the end of the cold war had not yielded the peace dividends that had been forecast; instead, a number of conflicts along ethnic, religious, economic and even clan lines had broken out. The United Nations had responded to those unexpected developments through peace-keeping operations, protection forces, observer or monitoring missions and humanitarian relief. It was a matter of deep regret that the men and women who served on those missions should be victims of assassinations, kidnappings and humiliation, and that the perpetrators of those acts should be the very ones who attacked their own fellow citizens and deprived them of humanitarian relief. It was, therefore, more than evident that the United Nations must take firm action to bring such activities to a halt, and his delegation was grateful to New Zealand and Ukraine for their timely initiative in bringing the matter before the Sixth Committee.

82. Since the publication of the report of the Secretary-General on the work of the Organization (A/48/1), recent events had once again underlined the risk and danger to which United Nations peace-keeping personnel were exposed. The statistics showed a rapid increase in the deaths of military and civilian peace-keeping personnel, and all Member States, without exception, had expressed their concern in that regard. There was no doubt that the diminished capacity of host Governments to provide security in civil disorder was a major factor in that deplorable situation. By and large, however, the Organization was no longer

(Mr. Koroma, Sierra Leone)

dealing with States or their agents but with non-State entities whose agenda was questionable and whose aim very often included creating uncertainty and chaos in the execution of either peace-keeping mandates or humanitarian relief.

83. During the 1993 session of the Special Committee on Peace-keeping Operations, many delegations had expressed their concern over the trend towards targeting peace-keeping personnel for violence. While some had felt that more emphasis should be put on State responsibility for the protection and security of peace-keeping personnel, others had been of the view, and rightly so, that the growing phenomenon of the involvement of non-State entities in conflicts had added a complex dimension to the question.

84. There was a vital need to examine the responsibility of perpetrators of such acts who were not covered by existing international law, while ensuring at the same time that Member States met their obligations. Ascription of vicarious liability to those who ordered, incited or encouraged the commission of violent acts against United Nations personnel was also urgently required. Equally, making such acts punishable by any State within whose jurisdiction the perpetrator might be found was now essential. Sierra Leone was in favour of broadening the scope of the international legal regime to cover the security and protection of providers of humanitarian assistance, even those from non-United Nations agencies. Their work should not be made more dangerous by exclusion from such coverage, particularly since they were the last to leave the conflict zone.

85. The proposals submitted by New Zealand and Ukraine were not limited to reiterating the rights and obligations which already existed in other international instruments, but were intended to deal positively with the new realities which the United Nations and associated agencies were called upon to confront. Both proposals had many positive aspects, and should form the basis for a comprehensive examination by a working group of the Committee, which could draft a consolidated text that would attract a broad consensus.

The meeting rose at 1 p.m.